

## APPENDIX II

### ENFORCEMENT REGIMES OF CERTAIN LAWS MADE APPLICABLE BY THE CAA

The tables in this Appendix show the elements of private-sector enforcement regimes for nine of the laws made applicable by the CAA: Title VII, ADEA, EPA, ADA title I, FMLA, FLSA, EPPA, WARN Act, and USERRA. (Because ADA title I incorporates powers and procedures from Title VII, these two laws are combined in a single table.) These nine are the laws for which the CAA does not grant investigatory or prosecutory authority to the Office of Compliance. ADA titles II-II, the OSHAct, and Chapter 71, for which the CAA does grant such enforcement authority to the Office of Compliance, are not included in these tables.

In each of the tables, agency enforcement authority is described in the following six categories:

1. Initiation of agency investigation, whether by receipt of a charge by an affected individual or by agency initiative.
2. Investigatory powers of the agency, including authority to conduct on-site investigations and power to issue and enforce subpoenas.
3. Authority to seek compliance by informal conference, conciliation, and persuasion.
4. Prosecutory authority, including power of an agency to commence civil actions, the remedies available, and the authority to seek fines or civil penalties.
5. Authority of the agency to issue advisory opinions.
6. Recordkeeping and reporting requirements.

TITLE VII and AMERICANS WITH DISABILITIES ACT (title I)

The ADA (title I) incorporates by reference the enforcement powers, remedies, and procedures of Title VII,<sup>1</sup> and is therefore summarized here in the same chart as Title VII.

<p><b>1. Initiation of investigation.</b> <i>Individual charges.</i> When an individual claimant files a charge, Title VII and the ADA require the EEOC to serve notice of the charge on the respondent and to investigate.<sup>2</sup> <i>Commissioner charges.</i> Title VII and the ADA also require the EEOC to serve notice and to investigate any charge filed by a Member of the EEOC.<sup>3</sup> Commissioner charges are ordinarily based on leads developed by EEOC field offices.</p>
<p><b>2. Investigatory powers.</b></p> <p><b>On-site investigation.</b> In connection with the investigation of an individual charge or a Commissioner charge, Title VII and the ADA authorize the EEOC and its representatives to “have access to, for purposes of examination, and the right to copy any evidence.”<sup>4</sup> According to the EEOC Compliance Manual, this authority includes interviewing witnesses.<sup>5</sup></p> <p><b>Subpoenas.</b> <i>Issuance.</i> Title VII and the ADA grant the EEOC the power to issue subpoenas, relying on authorities under the NLRA,<sup>6</sup> and EEOC regulations specify that subpoenas may be issued by any Commission member or any District Directors and certain other agency Directors and “any representatives designated by the Commission.”<sup>7</sup> <i>Petitions for revocation or modification.</i> Under EEOC regulations, Title VII and ADA subpoenas may be challenged by petition to the Director who issued the subpoena, who shall either grant the petition in its entirety or submit a proposed determination to the Commission for final determination.<sup>8</sup> <i>Enforcement.</i> Title VII and the ADA also empower the EEOC to seek district court enforcement of such subpoenas under authorities of the NLRA,<sup>9</sup> and EEOC regulations specify that the General Counsel or his or her designee may institute such proceedings.<sup>10</sup></p>
<p><b>3. “Reasonable cause” determination; Conciliation.</b> Title VII and the ADA provide that, if the EEOC determines after investigation that there is “reasonable cause to believe that the charge is true,” then the EEOC must “endeavor to eliminate any such alleged unlawful employment practice” by informal “conference, conciliation, and persuasion”; otherwise, the EEOC must dismiss the charge and send notice to the parties, including a right-to-sue letter to the person aggrieved.<sup>11</sup></p>
<p><b>4. Prosecutory authority.</b></p> <p><b>Civil enforcement actions.</b> <i>Generally.</i> The EEOC has the authority to prosecute alleged private-sector Title VII and ADA violations in district court, after the Commission has found “reasonable cause” and has been unable to resolve the case through “conference, conciliation, and persuasion.”<sup>12</sup> The EEOC General Counsel brings such civil actions on behalf of the EEOC. <i>Remedies.</i> The agency may request Title VII remedies (injunction, with or without back pay);<sup>13</sup> compensatory or punitive damages may be granted only in an “action brought by a complaining party.”<sup>14</sup> Title VII and the ADA also authorize the EEOC to ask the district courts for temporary or preliminary relief.<sup>15</sup></p> <p><b>Relation with private right of action.</b> If the EEOC sues, Title VII specifically authorizes the person aggrieved to intervene.<sup>16</sup> If the EEOC dismisses the charge, or fails to either enter into a conciliation agreement including the person aggrieved or commence a civil action within 180 days after the charge is filed, the EEOC must issue a right-to-sue letter to the person aggrieved, who may then sue; and the EEOC may then intervene if the case is of “general public importance.”<sup>17</sup></p> <p><b>Fine for notice-posting violation.</b> Title VII (though not the ADA) imposes a fine of not more than \$100 for a willful violation of notice-posting requirements.<sup>18</sup> The EEOC Compliance Manual states that the EEOC district or area office can levy such a fine, and, if a respondent is unwilling to pay, “The Regional Attorney should be notified.”<sup>19</sup></p>
<p><b>5. Advisory opinions.</b> <i>Title VII.</i> Title VII establishes a defense for good-faith reliance on “any written interpretation or opinion of the Commission.”<sup>20</sup> EEOC regulations specify that the following may be relied upon as such: (i) an “opinion letter” of the Legal Counsel or the General Counsel approved by the Commission, (ii) a Federal Register publication designated as an “interpretation or opinion,” or (iii) an “interpretation or opinion” included in a Commission determination of no reasonable cause.<sup>21</sup> <i>ADA.</i> Unlike the other discrimination laws, the ADA does not establish a defense for good-faith reliance on advisory opinions, and EEOC regulations do not provide for their issuance. Nevertheless, the EEOC appended “interpretive guidance” to its substantive regulations, stating that “the Commission will be guided by it when resolving charges of employment discrimination.”<sup>22</sup></p>
<p><b>6. Recordkeeping/reporting.</b> Title VII and the ADA require employers to make and preserve records, and to make reports, as the EEOC shall prescribe “by regulation or order, after public hearing.”<sup>23</sup> <i>Record-keeping.</i> EEOC regulations require employers to preserve for one year “[a]ny personnel or employment record,”<sup>24</sup> and also reserve the right to impose specific recordkeeping requirements on individual employers or group of employers.<sup>25</sup> The EEOC’s Title VII “Uniform Guidelines on Employee Selection Procedures” require that records be maintained by users of such procedures.<sup>26</sup> <i>Reporting.</i> EEOC regulations require employers having 100 or more employees to file an annual Title VII “Employer Information Report EEO-1,”<sup>27</sup> and also reserve the right to impose special or supplementary reporting requirements on individual employers or groups of employers under either Title VII or the ADA.<sup>28</sup> <i>Enforcement.</i> The EEOC may ask district courts to order compliance with Title VII and the ADA recordkeeping and reporting requirements.<sup>29</sup></p>

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

The ADEA is a procedural hybrid, modeling some of its procedures on Title VII, and incorporating other procedures from the FLSA. The ADEA was originally implemented and enforced by the Labor Department; the Secretary’s functions were transferred to the EEOC by the Reorganization Plan in 1978,<sup>30</sup> and ADEA procedures were conformed in some respects to those of Title VII by the Civil Rights Act of 1991.

<p><b>1. Initiation of investigation.</b> <i>Individual charges.</i> Upon receiving any ADEA complaint, the EEOC must notify the respondent.<sup>31</sup> Unlike Title VII and the ADA, the ADEA does not specifically require the EEOC to investigate complaints, but the EEOC applies a uniform policy for all discrimination laws, conducting an investigation appropriate to each particular charge.<sup>32</sup> <i>Directed investigations.</i> Unlike Commissioner charges under Title VII or the ADA, directed investigations under the ADEA may be commenced without action by an EEOC Member or notice to the respondent.</p>
<p><b>2. Investigatory powers.</b> The ADEA grants the EEOC broad investigatory power by reference to the FLSA.<sup>33</sup> With respect to subpoenas, the FLSA relies, in turn, on authorities of the FTC Act.<sup>34</sup></p> <p><b>On-site investigation.</b> The EEOC and its representatives are authorized to investigate and gather data, enter and inspect an employer’s premises and records, and question employees to “determine whether any person has violated” the ADEA or which may “aid in . . . enforcement.”<sup>35</sup></p> <p><b>Subpoenas.</b> <i>Issuance.</i> The ADEA, relying on authorities of the FTC Act, grants to the EEOC the power to issue subpoenas.<sup>36</sup> EEOC regulations, citing the agency’s power to delegate under the ADEA, delegate subpoena power to agency Directors and the General Counsel or their designees.<sup>37</sup> Unlike under Title VII and the ADA, there is no procedure for asking the EEOC to reconsider or review a subpoena under the ADEA.<sup>38</sup> <i>Enforcement.</i> The ADEA authorizes the EEOC to invoke the aid of Federal courts to enforce subpoenas under authorities of the FTC Act,<sup>39</sup> and the EEOC Compliance Manual specifies that the Office of General Counsel and the Regional Attorneys may institute such proceedings.<sup>40</sup></p>
<p><b>3. “Reasonable cause” determination; Conciliation.</b> The ADEA provides that, upon receiving a charge, the EEOC must “seek to eliminate any alleged unlawful practice” by informal “conference, conciliation, and persuasion.”<sup>41</sup> The ADEA, unlike Title VII and the ADA, does not require the Commission to make a “reasonable cause” determination as a prerequisite to conciliation, but EEOC regulations state that informal conciliation will be undertaken when the Commission has a “reasonable basis to conclude” that a violation has occurred or will occur.<sup>42</sup></p>
<p><b>4. Prosecutory authority.</b></p> <p><b>Civil actions.</b> <i>Generally.</i> The EEOC has authority to prosecute alleged ADEA violations in district court if the EEOC is unable to “effect voluntary compliance” through informal conciliation.<sup>43</sup> The EEOC General Counsel brings such civil actions on behalf of the EEOC. <i>Remedies.</i> The agency may request amounts owing under the ADEA, including liquidated damages in case of willful violations, and an order restraining violations, including an order to pay compensation due.<sup>44</sup></p> <p><b>Relation with private right of action.</b> An individual may bring a civil action 60 days after a charge is filed<sup>45</sup> and must sue within 90 days after receiving notice from the EEOC that the charge has been dismissed or proceedings otherwise terminated.<sup>46</sup> Thus, in contrast to Title VII and the ADA, the ADEA does not require that the EEOC issue a right to sue letter before an individual may sue.<sup>47</sup> As is the case under the FLSA, the EEOC’s commencement of a suit on the individual’s behalf terminates the individual’s unexercised right to sue,<sup>48</sup> but most cases hold that an EEOC suit filed after an individual has commenced a suit does not terminate the individual’s suit.<sup>49</sup></p>
<p><b>5. Advisory opinions.</b> The ADEA establishes a defense for good-faith reliance on “any written administrative regulation, order, ruling, approval, or interpretation” of the EEOC.<sup>50</sup> EEOC regulations specify that the following may be relied upon as such: (i) an “opinion letter” of the Legal Counsel or the General Counsel approved by the Commission, or (ii) a Federal Register publication designated as an “interpretation or opinion”;<sup>51</sup> and the EEOC has codified a body of its ADEA interpretations in the Code of Federal Regulations.<sup>52</sup></p>
<p><b>6. Recordkeeping/reporting.</b> The ADEA empowers the EEOC to require the keeping of necessary and appropriate records in accordance with the powers in section 11 of the FLSA. <i>Recordkeeping.</i> EEOC regulations specify the “payroll” records that employers must maintain and preserve for at least 3 years and “personnel or employment” records that employers must maintain and preserve for at least 1 year.<sup>53</sup> <i>Reporting.</i> Although the ADEA does not specifically require employees to submit reports, it references FLSA provisions requiring every employer “to make such reports” from required records]” as the Administrator shall prescribe.<sup>54</sup> EEOC regulations require each employer to make “such extension, recomputation, or transcription” of records and to submit “such reports concerning actions taken and limitations and classifications of individuals set forth in records” as the EEOC or its representative may request in writing.<sup>55</sup></p>

# EQUAL PAY ACT

The enforcement regime for the Equal Pay Act (“EPA”) is a hybrid between the FLSA model and the Title VII mode. The EPA legislation in 1963 added a new section 6(d) to the FLSA establishing substantive rights and responsibilities,<sup>56</sup> and relied on the existing FLSA provisions establishing enforcement powers, remedies, and procedures. The EPA was, at first, implemented and enforced by the Labor Department with the rest of the FLSA; the Secretary’s EPA functions were transferred to the EEOC by the Reorganization Plan in 1978,<sup>57</sup> and the EEOC has conformed its EPA enforcement processes with those for Title VII in some respects.

<p><b>1. Initiation of investigation.</b> <i>Individual complaints.</i> Unlike the other discrimination laws, the FLSA, as amended by the EPA, does not require the EEOC to notify the respondent or to investigate complaints. However, the EEOC applies a uniform policy for all discrimination laws, conducting an investigation appropriate to each particular charge.<sup>58</sup> <i>Directed investigations.</i> Unlike Commissioner charges under Title VII and the ADA, directed investigations under the ADEA may be commenced without action by an EEOC Member or notice to the respondent.</p>
<p><b>2. Investigatory powers.</b> The FLSA, of which the EPA is a part, grants the EEOC broad investigatory authority.<sup>59</sup> With respect to subpoenas, the FLSA relies, in turn, on authorities of the FTC Act.<sup>60</sup></p> <p><b>On-site investigation.</b> The FLSA, as amended by the EPA, authorizes the EEOC and its representatives to investigate and gather data, enter and inspect an employer’s premises and records, and question employees to “determine whether any person has violated” the EPA or which may “aid in . . . enforcement” of the EPA<sup>61</sup></p> <p><b>Subpoenas.</b> Under the FLSA, as amended by the EPA, the EEOC can issue and enforce subpoenas, relying on the authorities of the FTC Act.<sup>62</sup> <i>Issuance.</i> The power under the FLSA to issue subpoenas may not be delegated,<sup>63</sup> and EEOC regulations provide that subpoenas may be issued by any Member of the Commission.<sup>64</sup> <i>Enforcement.</i> The FLSA, as amended by the EPA, authorizes the EEOC to invoke the aid of Federal courts to enforce subpoenas,<sup>65</sup> and the EEOC Compliance Manual specifies that the Office of General Counsel and the Regional Attorneys may institute such proceedings.<sup>66</sup></p>
<p><b>3. “Reasonable Cause” Determination; Conciliation.</b> The FLSA, as amended by the EPA, does not require the EEOC to issue a written determination on each case or to undertake conciliation efforts. However, it is EEOC’s uniform policy to issue “reasonable cause” letters for all laws, once a case has been found to meet the reasonable cause standard,<sup>67</sup> and EEOC office directors are granted discretion to invite a respondent to engage in conciliation negotiations when a “reasonable cause” letter is issued.<sup>68</sup></p>
<p><b>4. Prosecutory authority.</b></p> <p><b>Civil proceedings.</b> <i>Generally.</i> The EEOC has the authority to prosecute alleged EPA violations in district court.<sup>69</sup> Unlike other discrimination laws, the FLSA, as amendment by the EPA, authorizes the EEOC to sue without first having undertaken conciliation efforts. The EEOC General Counsel brings such civil actions on behalf of the EEOC. <i>Remedies.</i> The agency may request back wages, plus an equal amount in liquidated damages on behalf of aggrieved persons, and may also seek an injunction in federal district court restraining violations, including an order to pay compensation due, plus interest.<sup>70</sup></p> <p><b>Relation with private right of action.</b> Unlike the other discrimination laws, the FLSA, as amended by the EPA, does not require an individual to first file a charge with the EEOC and await conciliation efforts before bringing a civil action.<sup>71</sup> If the EEOC first commences suit on the individual’s behalf, the individual’s right to bring suit terminates.<sup>72</sup></p>
<p><b>5. Advisory opinions.</b> The Portal-to-Portal Act (“PPA”) establishes a defense for good-faith reliance on the “written administrative regulation, order, ruling, approval, or interpretation” of the Administrator.<sup>73</sup> The EEOC has published procedures for requesting opinion letters under the EPA, and has specified that the following may be relied upon as such: (i) an “opinion letter” of the Legal Counsel or the General Counsel approved by the Commission, or (ii) a Federal Register publication designated as an “interpretation or opinion.”<sup>74</sup></p>
<p><b>6. Recordkeeping/reporting.</b> Under the FLSA, as amended by the EPA, every employer must make and preserve such records, and “make such reports therefrom,” as the EEOC shall prescribe “by regulation or order.”<sup>75</sup> <i>Recordkeeping.</i> The EEOC regulations adopt by reference the Labor Department’s FLSA regulations specifying the “payroll” and other records that employers must maintain and preserve for at least 3 years and the “employment and earnings” records that employers must maintain and preserve for at least 2 years.<sup>76</sup> In addition, EEOC regulations require employers to preserve for 2 years any records made in the ordinary course of business that describe or explain any differential in wages paid to members of the opposite sex in the same establishment.<sup>77</sup> <i>Reporting.</i> The Labor Department’s regulations, which are adopted by reference by EEOC’s regulations, also require each employer to make “such extension, recomputation, or transcription” of required records, and to submit “such reports,” as may be “require[d] in writing.”<sup>78</sup></p>

FAMILY AND MEDICAL LEAVE ACT OF 1993

The FMLA incorporates much of the investigative authority set forth in the FLSA<sup>79</sup> and establishes prosecutorial powers modeled on those in the FLSA.<sup>80</sup> Furthermore, the FMLA specifically requires the Secretary to “receive, investigate, and attempt to resolve” complaints of violations “in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of [FLSA] violations.”<sup>81</sup>

<p><b>1. Initiation of investigation.</b> <i>Individual complaints.</i> The FMLA requires that complaints be received and investigated in the same manner as FLSA complaints, even though the FLSA itself does not require the receipt and investigation of individual complaints. In practice, as the Wage and Hour Division receives and accepts complaints, which it analyzes and investigates on a worst-first priority basis,<sup>82</sup> the Division is required to do the same for FMLA complaints. <i>Directed investigations.</i> The FMLA references the investigatory power as the FLSA,<sup>83</sup> under which authority the Division conducts directed investigations.<sup>84</sup></p>
<p><b>2. Investigatory powers.</b></p> <p><b>On-site investigation.</b> The FMLA references the investigatory power of the FLSA,<sup>85</sup> which affords authority to the Administrator and his representatives to investigate and gather data, enter and inspect an employer’s premises and records, and question employees to “determine whether any person has violated” the FLSA or which may “aid in . . . enforcement” of the FLSA.<sup>86</sup></p> <p><b>Subpoenas.</b> The FMLA incorporates the subpoena power set forth in the FLSA, under which the Secretary and the Administrator can issue and enforce subpoenas, relying on the authorities of the FTC Act.<sup>87</sup> <i>Issuance.</i> The power of the Secretary and the Administrator to issue subpoenas under the FLSA may not be delegated.<sup>88</sup> <i>Enforcement.</i> The FLSA authorizes the Secretary and the Administrator to invoke the aid of Federal courts to enforce subpoenas,<sup>89</sup> and the such civil litigation on behalf of the Department is handled by the Solicitor of Labor and the Regional Solicitors.</p>
<p><b>3. Conciliation.</b> The FMLA requires the Secretary to “attempt to resolve” FMLA complaints in the same way as FLSA complaints, even though the FLSA does not require conciliation. In practice, however, where the FLSA violation appears to be minor and to involve only a single individual, the investigator will ask the employee for permission to use of his or her name and will then telephone the employer to ask for a response to the charge, and, if there appears to be a violation, will close the matter upon the payment of back wages.<sup>90</sup></p>
<p><b>4. Prosecutory authority.</b></p> <p><b>Civil proceedings.</b> <i>Generally.</i> The Secretary has the authority to prosecute alleged FMLA violations in district court.<sup>91</sup> The FMLA specifies that the Solicitor of Labor may represent the Secretary in any such litigation.<sup>92</sup> <i>Remedies.</i> The agency may seek: (i) damages, including liquidated damages, owing to an employee, and (ii) an order restraining violations, including an order to pay compensation due, or other equitable relief.<sup>93</sup></p> <p><b>Relation with private right of action.</b> Unlike the discrimination laws, but like the FLSA, the FMLA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.<sup>94</sup> However, if the Labor Department first commences suit on the individual’s behalf, the individual’s right to bring suit terminates.<sup>95</sup></p> <p><b>Administrative assessment of civil penalties.</b> Civil penalties for violation of notice-posting requirements<sup>96</sup> may be assessed, according to the Secretary’s regulations, by any Labor Department representative, subject to appeal to the Wage and Hour Regional Administrator, and subject to judicial collection proceeding commenced by the Solicitor of Labor.<sup>97</sup></p>
<p><b>5. Advisory opinions.</b> Although the FMLA establishes a defense against liquidated damages for good-faith violations where the employer had reasonable cause to believe the conduct was not a violation,<sup>98</sup> the Act does not refer specifically to reliance on interpretations or opinions of the Secretary or the Administrator, and the Secretary’s regulations contain neither FMLA interpretations or opinions designated as such nor procedures for requesting interpretations or opinions.</p>
<p><b>6. Recordkeeping/reporting.</b> <i>Recordkeeping.</i> The FMLA requires employers to make, keep, and preserve records in accordance with regulations of the Secretary,<sup>99</sup> and those regulations specify the records regarding payroll, benefits, and FMLA leave and disputes that employers must maintain and preserve for 3 years.<sup>100</sup> <i>Reporting.</i> The FMLA references the recordkeeping authorities under the FLSA, which include the requirement that employers shall make “reports therefrom [from required records]” as the Administrator shall “prescribe by regulation or order.”<sup>101</sup> The FMLA further provides that the Secretary may not require an employer to submit to the Secretary any books or records more than once in 12 months, unless the Secretary has reasonable cause to believe there may be a violation or is investigating an employee charge.<sup>102</sup> The Secretary’s FMLA regulations indicate that employers must submit records “specifically requested by a Departmental official” and must prepare “extensions or transcriptions” of information in the records “upon request.”<sup>103</sup></p>

FAIR LABOR STANDARDS ACT OF 1938

<p><b>1. Initiation of investigation.</b> <i>Individual complaints.</i> Unlike Title VII, the FLSA does not specifically require the investigation of individual complaints, but the Wage and Hour Division receives and accepts complaints, which it analyzes and investigates on a worst-first priority basis.<sup>104</sup> <i>Directed investigations.</i> The FLSA has no counterpart to the Commissioner charges under Title VII. Instead, the Division can conduct directed investigations without formal approval by the head of the agency, developing leads from a variety of sources.<sup>105</sup> The Division also conducts periodic compliance surveys, reviewing wages paid to a statistical sampling of employees at a random sample of employers, and may initiate a directed investigation when a violation is evident.<sup>106</sup></p>
<p><b>2. Investigatory powers.</b></p> <p><b>On-site investigation.</b> The FLSA authorizes the Administrator and his representatives to investigate and gather data, enter and inspect an employer’s premises and records, and question employees to “determine whether any person has violated” the FLSA or which may “aid in . . . enforcement” of the FLSA.<sup>107</sup></p> <p><b>Subpoenas.</b> Under the FLSA, the Secretary and the Administrator can issue and enforce subpoenas, relying on the authorities of the FTC Act.<sup>108</sup> <i>Issuance.</i> The power of the Secretary and the Administrator to issue subpoenas under the FLSA may not be delegated.<sup>109</sup> <i>Enforcement.</i> The FLSA authorizes the Secretary and the Administrator to invoke the aid of Federal courts to enforce subpoenas,<sup>110</sup> and such civil litigation on behalf of the Department is handled by the Solicitor of Labor and the Regional Solicitors.</p>
<p><b>3. Conciliation.</b> Unlike Title VII, the FLSA does not require “reasonable cause” determinations or conciliation. In practice, where the violation appears to be minor and to involve only a single individual, the investigatory will ask the employee for permission to use of his or her name and will then telephone the employer to ask for a response to the charge, and, if there appears to be a violation, will close the matter upon the payment of back wages.<sup>111</sup></p>
<p><b>4. Prosecutory authority.</b></p> <p><b>Civil proceedings.</b> <i>Generally.</i> The Secretary has the authority to prosecute alleged FLSA violations in district court.<sup>112</sup> The Solicitor of Labor and Regional Solicitors are responsible for bringing litigation on behalf of the Administrator. <i>Remedies.</i> The agency may seek: (i) unpaid minimum wages or overtime compensation and liquidated damages owing to an employee, (ii) civil penalties, and (iii) an order restraining violations, including an order to pay compensation due.<sup>113</sup></p> <p><b>Relation with private right of action.</b> Unlike the discrimination laws, the FLSA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.<sup>114</sup> However, if the Labor Department first commences suit on the individual’s behalf, the individual’s right to bring suit terminates.<sup>115</sup></p> <p><b>Administrative assessment of civil penalties; criminal proceedings.</b> Civil penalties for repeated or willful violations or for child labor violations are assessed initially by the Secretary, and, if the respondent takes exception, are decided through adjudication before an ALJ, subject to appeal to the Labor Secretary and judicial review in federal district court.<sup>116</sup> The FLSA also imposes fines and imprisonment for willful violations.<sup>117</sup></p>
<p><b>5. Advisory opinions.</b> The Portal-to-Portal Act establishes a defense for good-faith reliance on the “written administrative regulation, order, ruling, approval, or interpretation” of the Administrator.<sup>118</sup> The Administrator has issued interpretative bulletins and advisory opinions “to indicate the construction of the law which will guide the Administrator in the performance of his administrative duties.”<sup>119</sup></p>
<p><b>6. Recordkeeping/reporting.</b> The FLSA requires every employer to make and preserve such records, and “to make such reports therefrom,” as the Wage and Hour Administrator shall prescribe “by regulation or order.”<sup>120</sup> <i>Recordkeeping.</i> Labor Department regulations specify the “payroll” and other records that employers must maintain and preserve for at least 3 years and the “employment and earnings” records that employers must maintain and preserve for at least 2 years.<sup>121</sup> <i>Reporting.</i> These regulations also require each employer to make “such extension, recomputation, or transcription” of required records, and to submit “such reports,” as the Administrator may “request in writing.”<sup>122</sup></p>

EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

The enforcement regime under the EPPA is similar to that under the FLSA in some respects, and in other respects is *sui generis*.

<p><b>1. Initiation of investigation.</b> <i>Individual complaints.</i> Like the FLSA and unlike Title VII, the EPPA does not specifically require the investigation of individual complaints. However, the Labor Secretary’s regulations provide that the Wage and Hour Division will receive reports of violations from any person.<sup>123</sup> <i>Directed investigations.</i> Like the FLSA and unlike Title VII, the EPPA authorizes the Labor Department to conduct directed investigations without formal approval by the head of the agency.<sup>124</sup></p>
<p><b>2. Investigatory powers.</b></p> <p><b>On-site investigation.</b> The EPPA authorizes the Secretary to make “necessary or appropriate” investigations and inspections.<sup>125</sup></p> <p><b>Subpoenas.</b> Under the EPPA, as under the FLSA, the Secretary can issue and enforce subpoenas, relying on the authorities of the FTC Act.<sup>126</sup> The EPPA authorizes the Secretary to invoke the aid of Federal courts to enforce subpoenas,<sup>127</sup> and civil litigation on behalf of the Department is handled by the Solicitor of Labor.<sup>128</sup></p>
<p><b>3. Conciliation.</b> Like the FLSA and unlike Title VII, the EPPA does not require “reasonable cause” determinations or conciliation.</p>
<p><b>4. Prosecutory authority.</b></p> <p><b>Civil proceedings.</b> <i>Generally.</i> The EPPA authorizes the Labor Secretary to prosecute in alleged EPPA violations in district court.<sup>129</sup> The Solicitor of Labor may represent the Secretary in such litigation.<sup>130</sup> <i>Remedies.</i> The agency may seek temporary or permanent restraining orders and injunctions to require compliance, including incidental relief such as reinstatement and back pay and benefits.<sup>131</sup></p> <p><b>Relation with private right of action.</b> Unlike the discrimination laws, and like the FLSA, the EPPA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.<sup>132</sup> However, unlike both the discrimination laws and the FLSA, the EPPA does not state that the individual’s right to bring suit to terminates upon the filing of an enforcement action by the Secretary.<sup>133</sup></p> <p><b>Administrative assessment of civil penalties.</b> Civil penalties for violations are assessed initially by the Secretary. Applying the procedures of the Migrant and Seasonal Agricultural Worker Protection Act, the EPPA provides that, if the respondent takes exception, the validity of the assessment is decided through adjudication before an ALJ, who renders an initial decision subject to modification by the Labor Secretary, and subject to judicial review in federal district court.<sup>134</sup></p>
<p><b>5. Advisory opinions.</b> Unlike both Title VII and the FLSA, the EPPA establishes no defense for good-faith reliance on agency advisory opinions, and the Labor Secretary’s EPPA regulations contain neither EPPA interpretations or opinions designated as such nor procedures for requesting interpretations or opinions. However, the regulations contain provisions that the Secretary characterized as “interpretations regarding the effect of . . . the Act on other laws and collective bargaining agreements.”<sup>135</sup></p>
<p><b>6. Recordkeeping/reporting.</b> <i>Recordkeeping.</i> The EPPA requires the keeping of records “necessary or appropriate for the administration” of the EPPA.<sup>136</sup> Labor Department regulations specify the records regarding any polygraph use that employers and examiners must maintain and preserved for 3 years.<sup>137</sup> <i>Reporting.</i> The EPPA and Labor Department regulations do not impose any reporting requirements.</p>

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The WARN Act establishes no agency investigative or enforcement authority, and is enforced solely through the private right of action.

1.	Initiation of investigation.	None.
2.	Investigatory powers.	None.
3.	Conciliation.	The WARN Act makes no provision for conciliation.
4.	Prosecutory authority.	None.
5.	Advisory opinions.	The WARN Act makes no provision for advisory opinions.
6.	Recordkeeping/reporting.	None.



**UNIFORMED SERVICES EMPLOYMENT AND  
REEMPLOYMENT RIGHTS ACT OF 1994**

<p><b>1. Initiation of investigation.</b> <i>Individual complaints.</i> When an employee files a complaint with the Secretary of Labor, the Secretary is required to investigate.<sup>138</sup> <i>Directed investigations.</i> The USERRA does not authorize investigations without an employee complaint.</p>
<p><b>2. Investigatory powers.</b></p> <p><b>On-site investigation.</b> In connection with the investigation of any complaint, USERRA authorizes the Secretary's "duly authorized representatives" to interview witnesses and to examine and copy any relevant documents.<sup>139</sup></p> <p><b>Subpoenas.</b> <i>Issuance.</i> The Secretary can issue subpoenas under the USERRA.<sup>140</sup> <i>Enforcement.</i> The USERRA authorizes the Attorney General, upon the request of the Secretary, to invoke the aid of Federal courts to enforce subpoenas.<sup>141</sup></p>
<p><b>3. Finding that violation occurred; conciliation.</b> If the Secretary determines that the action alleged in a complaint occurred, the USERRA requires the Secretary to "attempt to resolve the complaint by making reasonable efforts to ensure" compliance.<sup>142</sup> If the Secretary's is unable to resolve the complaint in this manner, the Secretary shall so notify the complaining employee.<sup>143</sup></p>
<p><b>4. Prosecutory authority.</b></p> <p><b>Civil proceedings.</b> <i>Generally.</i> A complaining employee who receives notification that the Secretary could not resolve the complaint may ask the Secretary to refer the matter to the Attorney General, who, if reasonably satisfied that the complaint is meritorious, may prosecute the alleged USERRA violation in district court on behalf of the employee.<sup>144</sup> <i>Remedies.</i> The Attorney General may seek the same remedies as a private individual under USERRA: injunctions and orders requiring compliance, compensation for lost wages and benefits, and, for willful violations, liquidated damages.<sup>145</sup></p> <p><b>Relation with private right of action.</b> Unlike the discrimination laws, the USERRA does not require an employee to first file an administrative complaint and await conciliation efforts before bringing a civil action.<sup>146</sup> If the employee does choose to file an administrative complaint, the employee may sue upon notification that the Secretary could not resolve the complaint informally, and may sue as well if the employee asks the Attorney General to take the case but the Attorney General declines.<sup>147</sup> If the employee asks the Attorney General to pursue the case and the Attorney General does so, the individual may not also pursue a private action.</p>
<p><b>5. Advisory opinions.</b> The USERRA establishes no defense for good-faith reliance on agency advisory opinions, and the Labor Secretary has not promulgated in the Federal Register any interpretations or opinions designated as such nor procedures for requesting interpretations or opinions.</p>
<p><b>6. Recordkeeping/reporting.</b> The USERRA imposes no recordkeeping or reporting requirements.</p>

## ENDNOTES

### NOTES REGARDING TABLE 1 – TITLE VII & ADA (title I)

1. § 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of §§ 705-707, 709, and 710 of Title VII, 42 U.S.C. §§ 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9).
2. § 706(b) of Title VII, 42 U.S.C. § 2000e-5(b).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
3. § 706(b) of Title VII, 42 U.S.C. § 2000e-5(b).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
4. § 709(a) of Title VII, 42 U.S.C. § 2000e-8(a).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
5. 1 EEOC COMPLIANCE MANUAL, Vol. 1 – Investigative Procedures § 25.1 (BNA) 25:0001 (6/87).
6. § 710 of Title VII, 42 U.S.C. § 2000e-9 (applying authorities under § 11 of the NLRA, including paragraph (1) thereof, 29 U.S.C. § 161(1)).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
7. 29 C.F.R. § 1601.16(a).
8. 29 C.F.R. § 1601.16(b).
9. § 710 of Title VII, 42 U.S.C. § 2000e-9 (applying § 11 of the NLRA, including paragraph (2) thereof, 29 U.S.C. § 161(2)).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
10. 29 C.F.R. § 1601.16(d).
11. § 706(b) of Title VII, 42 U.S.C. § 2000e-5(b).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
12. § 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
13. § 706(g)(1) of Title VII, 42 U.S.C. § 2000e-5(g)(1).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
14. 42 U.S.C. § 1981a(a)(1)-(2).
15. § 706(f)(2) of Title VII, 42 U.S.C. § 2000e-5(f)(2).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
16. § 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).
17. § 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).

18. § 711(b) of Title VII, 42 U.S.C. § 2000e–10(b).
19. 2 EEOC COMPLIANCE MANUAL, Vol. 2 – Interpretive Manual § 25.1 (BNA) 632:0019 (1/87).
20. § 713(b) of Title VII, 42 U.S.C. § 2000e–12(b).
21. 29 C.F.R. § 1601.93 *et seq.*
22. 29 C.F.R. part 1630 Appendix.
23. § 709(c) of Title VII, 42 U.S.C. § 2000e–8(c).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII ).
24. 29 C.F.R. § 1602.14.
25. 29 C.F.R. § 1602.12.
26. 29 C.F.R. §§ 1607.4, 1607.15.
27. 29 C.F.R. § 1602.7.
28. 29 C.F.R. § 1602.11.
29. § 709(c) of Title VII, 42 U.S.C. § 2000e–8(c).  
§ 107(a) of the ADA, 42 U.S.C. § 12117(a) (applying the powers, remedies, and procedures of Title VII).

#### NOTES REGARDING TABLE 2 – ADEA

30. Reorganization Plan No. 1 of 1978, § 2, set out in 5 U.S.C. Appendix 1.
31. § 706(b) of Title VII, 42 U.S.C. § 2000e–5(b).
32. EEOC, *Priority Charge Handling Procedures* (June 20, 1995), *reprinted in* 3 EEOC COMPLIANCE MANUAL (BNA) N.3069, N.3070 (10/95).
33. § 7(a) of the ADEA, 29 U.S.C. § 626(a) (granting the power to make investigations, in accordance with the powers and procedures provided in §§ 9 and 11 of the FLSA, 29 U.S.C. §§ 209, 211).
34. § 9 of the FLSA, 29 U.S.C. § 209 (referencing §§ 9-10 of the Federal Trade Commission Act, 15 U.S.C. §§ 49-50.)
35. §11(a) of the FLSA, 29 U.S.C. § 211(a) (referenced by § 7(a) of the ADEA, 29 U.S.C. § 626(a)).
36. § 7(a) of the ADEA, 29 U.S.C. § 626(a) (applying powers of § 9 of the FLSA, 29 U.S.C. § 209, which applies powers of § 9 of the FTC Act, 15 U.S.C. § 49).
37. 29 C.F.R. § 1626.16(b) (citing general authority to delegate under § 6(a) of the ADEA, 29 U.S.C. § 625(a)).
38. 29 C.F.R. § 1626.16(c).
39. § 7(a) of the ADEA, 29 U.S.C. § 626(a) (applying powers of § 9 of the FLSA, 29 U.S.C. § 209, which applies powers of §§ 9-10 of the FTC Act, 15 U.S.C. §§ 49-50).
40. 1 EEOC COMPLIANCE MANUAL, Vol. 1 – Investigative Procedures § 24.13 (BNA) 24:0009 (2/88).
41. § 7(b) of the ADEA, 29 U.S.C. § 626(b).
42. 29 C.F.R. § 1626.15(b).
43. § 7(b) of the ADEA, 29 U.S.C. § 626(b).
44. *Id.*
45. § 7(d) of the ADEA, 29 U.S.C. § 626(d).

46. § 7(e) of the ADEA, 29 U.S.C. § 626(e).
47. See *Crossman v. Crosson*, 905 F.Supp. 90, 93 n.1 (E.D.N.Y. 1995), *aff'd on other grounds*, 101 F.3d 684 (2nd Cir. 1996).
48. § 7(c)(1) of the ADEA, 29 U.S.C. § 626(c)(1).
49. See I LINDEMANN & GROSSMAN, EMPLOYMENT DISCRIMINATION LAW 574 (3d ed. 1996).
50. § 7(e) of the ADEA, 29 U.S.C. § 626(e), referencing § 10 of the Portal to Portal Act, 29 U.S.C. § 259.
51. 29 C.F.R. § 1626.18.
52. 29 C.F.R. § 1625.1 *et seq.*
53. 29 C.F.R. § 1627.3(a)-(b).
54. Sec. 11(c) of the FLSA, 29 U.S.C. § 211(c).
55. 29 C.F.R. § 1627.7.

#### NOTES REGARDING TABLE 3 – EQUAL PAY ACT

56. § 6(d) of the FLSA, 29 U.S.C. § 206(d), as added by Pub. L. 88-38, § 3, 77 Stat. 56 (June 10, 1963).
57. Reorganization Plan No. 1 of 1978, § 2, set out in 5 U.S.C. Appendix 1.
58. EEOC, *Priority Charge Handling Procedures* (June 20, 1995), *reprinted in* 3 EEOC COMPLIANCE MANUAL (BNA) N.3069, N.3070.
59. §§ 9 and 11 of the FLSA, 29 U.S.C. §§ 209, 211.
60. § 9 of the FLSA, 29 U.S.C. § 209 (referencing §§ 9-10 of the FTC Act, 15 U.S.C. §§ 49-50.)
61. § 11(a) of the FLSA, 29 U.S.C. § 211(a).
62. § 9 of the FLSA, 29 U.S.C. § 209 (referencing §§ 9-10 of the Federal Trade Commission (“FTC”) Act, 15 U.S.C. §§ 49-50.)
63. See *Cudahy Packing Co. of Louisiana, Ltd., v. Holland*, 315 U.S. 357 (1942).
64. 29 C.F.R. § 1620.31.
65. § 9 of the FLSA, 29 U.S.C. § 209 (applying the powers of §§ 9-10 of the FTC Act, 15 U.S.C. §§ 49-50.)
66. 1 EEOC COMPLIANCE MANUAL, Vol. 1 – Investigative Procedures § 24.13 (BNA) 24:0009 (2/88).
67. 1 EEOC COMPLIANCE MANUAL, Vol. 1 – Investigative Procedures § 40.1 (BNA) 40:0001 (2/88).
68. 1 EEOC COMPLIANCE MANUAL, Vol. 1 – Investigative Procedures § 60.3(c) (BNA) 60:0001 - 60:0002 (2/88).
69. §§ 16(c), (e)(2), 17 of the FLSA, 29 U.S.C. §§ 216(c), (e)(2), 217.
70. *Id.*
71. § 16(b) of the FLSA, 29 U.S.C. § 216(b).
72. *Id.*
73. § 10 of the Portal-to-Portal Act, 29 U.S.C. § 259.
74. 29 C.F.R. § 1621.4.
75. § 11(c) of the FLSA, 29 U.S.C. § 211(c).

- 76. 29 C.F.R. § 1620.32 (adopting by reference the Labor Department's regulations at 29 C.F.R. part 516).
- 77. 29 C.F.R. § 1620.32 (b)-(c).
- 78. 29 C.F.R. § 516.8.

#### NOTES REGARDING TABLE 4 – FMLA

- 79. § 106(a)-(b), (d) of the FMLA, 29 U.S.C. § 2616(a)-(b), (d) (referencing the investigatory authority of § 11(a), the recordkeeping requirements of § 11(c), and the subpoena authority of § 9 of the FLSA, 29 U.S.C. §§ 209, 211(a), (c)).
- 80. § 107 of the FMLA, 29 U.S.C. § 2617.
- 81. § 107(b)(1) of the FMLA, 29 U.S.C. § 2617(b)(1).
- 82. See SCHNEIDER & STINE, WAGE & HOUR LAW: COMPLIANCE AND PRACTICE (Clark, Boardman, Callaghan, 1995), § 19:02.
- 83. § 106(a) of the FMLA, 29 U.S.C. § 2616(a) (referencing investigatory authority of § 11(a), of the FLSA, 29 U.S.C. § 211(a)).
- 84. See SCHNEIDER & STINE, WAGE & HOUR LAW: COMPLIANCE AND PRACTICE (Clark, Boardman, Callaghan, 1995), § 19:02.
- 85. § 106(a) of the FMLA, 29 U.S.C. § 2616(a).
- 86. See § 11(a) of the FLSA, 29 U.S.C. § 211(a).
- 87. See § 9 of the FLSA, 29 U.S.C. § 209 (referencing §§ 9-10 of the Federal Trade Commission ("FTC") Act, 15 U.S.C. §§ 49-50.)
- 88. See *Cudahy Packing Co. of Louisiana, Ltd., v. Holland*, 315 U.S. 357 (1942).
- 89. See § 9 of the FLSA, 29 U.S.C. § 209 (applying the powers of §§ 9-10 of the FTC Act, 15 U.S.C. §§ 49-50.)
- 90. See STATE AND FEDERAL WAGE AND HOUR COMPLIANCE GUIDE, *supra*, ¶ 10.02[2][b], at 10-6.
- 91. § 107(b)(2)-(3), (d) of the FMLA, 29 U.S.C. § 2617(b)(2)-(3), (d).
- 92. § 107(e) of the FMLA, 29 U.S.C. § 2617(e).
- 93. § 107(b)(2)-(3), (d) of the FMLA, 29 U.S.C. § 2617(b)(2)-(3), (d).
- 94. § 107(a) of the FMLA, 29 U.S.C. § 2617(a).
- 95. § 107(a)(4) of the FMLA, 29 U.S.C. § 2617(a)(4).
- 96. § 109(b) of the FMLA, 29 U.S.C. § 2619(b).
- 97. 29 C.F.R. §§ 825.402 - 825.404.
- 98. § 107(a)(1)(A)(iii) of the FMLA, 29 U.S.C. § 2617(a)(1)(A)(iii).
- 99. § 106(b) of the FMLA, 29 U.S.C. § 2616(b).
- 100. 29 C.F.R. § 825.500.
- 101. § 106(b) of the FMLA, 29 U.S.C. § 2616(b) (referencing § 11(c) of the FLSA, 29 U.S.C. § 211(c)).
- 102. See § 106(c) of the FMLA, 29 U.S.C. § 2616(c).
- 103. 29 C.F.R. § 825.500(a) - (b).

## NOTES REGARDING TABLE 5 – FLSA

104. See SCHNEIDER & STINE, WAGE & HOUR LAW: COMPLIANCE AND PRACTICE (Clark, Boardman, Callaghan, 1995), § 19:02.
105. See *id.*
106. See STATE AND FEDERAL WAGE AND HOUR COMPLIANCE GUIDE (Warren, Gorham & Lamont, 1996), ¶ 10.02[1][d], page 10-5.
107. §11(a) of the FLSA, 29 U.S.C. § 211(a).
108. § 9 of the FLSA, 29 U.S.C. § 209 (referencing §§ 9-10 of the Federal Trade Commission (“FTC”) Act, 15 U.S.C. §§ 49-50.)
109. See *Cudahy Packing Co. of Louisiana, Ltd., v. Holland*, 315 U.S. 357 (1942).
110. § 9 of the FLSA, 29 U.S.C. § 209 (applying the powers of §§ 9-10 of the FTC Act, 15 U.S.C. §§ 49-50.)
111. See STATE AND FEDERAL WAGE AND HOUR COMPLIANCE GUIDE, *supra*, ¶ 10.02[2][b], at 10-6.
112. §§ 16(c), (e)(2), 17 of the FLSA, 29 U.S.C. §§ 216(c), (e)(2), 217.
113. *Id.*
114. § 16(b) of the FLSA, 29 U.S.C. § 216(b).
115. *Id.*
116. § 16(e) of the FLSA, 29 U.S.C. § 216(e); 29 C.F.R. § 580.13; 5 U.S.C. §§ 701-706.
117. § 16(a) of the FLSA, 29 U.S.C. § 216(a).
118. § 10 of the PPA, 29 U.S.C. § 259.
119. 29 C.F.R. § 775.1.
120. § 11(c) of the FLSA, 29 U.S.C. § 211(c).
121. 29 C.F.R. §§ 516.5 - 516.7.
122. 29 C.F.R. § 516.8.

## NOTES REGARDING TABLE 6 – EPPA

123. 29 C.F.R. § 801.7(d).
124. § 5(a)(3) of the EPPA, 29 U.S.C. § 2004(a)(3).
125. *Id.*
126. § 5(b) of the EPPA, 29 U.S.C. § 2004(b) (applying the powers of §§ 9-10 of the FTC Act, 15 U.S.C. §§ 49-50.).
127. *Id.*
128. § 6(b) of the EPPA, 29 U.S.C. § 2005(b).
129. *Id.*
130. *Id.*
131. *Id.*
132. § 6(c) of the EPPA, 29 U.S.C. § 2005(c).
133. *Id.*

- 134. § 6(a) of the EPPA, 29 U.S.C. § 2005(a) (referencing penalty collection procedures of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. § 1853(b)-(e)); 5 U.S.C. §§ 701-706.
- 135. 29 C.F.R. § 801.1(b).
- 136. § 5(a)(3) of the EPPA, 29 U.S.C. § 2004(a)(3).
- 137. 29 C.F.R. § 801.30.

**NOTES REGARDING TABLE 8 – USERRA**

- 138. 38 U.S.C. § 4322(a)-(d).
- 139. 38 U.S.C. § 4326(a).
- 140. 38 U.S.C. § 4326(b).
- 141. 38 U.S.C. § 4326(b)-(c).
- 142. 38 U.S.C. § 4322(d).
- 143. 38 U.S.C. § 4322(e).
- 144. 38 U.S.C. § 4323(a)(1).
- 145. 38 U.S.C. § 4323(c)(1).
- 146. 38 U.S.C. § 4323(a)(2)(A).
- 147. 38 U.S.C. § 4323(a)(2)(B)-(C).